UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,286	03/04/2004	Colin N.B. Cook	2540-0707	3146

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EXAMINER
DISTEFANO, GREGORY A

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
05/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Advisory Action *Before the Filing of an Appeal Brief*	Application No. 10/792,286	Applicant(s) COOK ET AL.	
	Examiner GREGORY A. DISTEFANO	Art Unit 2176	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>14 April 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>4</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because
   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b)☐ They raise the issue of new matter (see NOTE below);
   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.
      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: <u>1,2 and 12-15</u>.
   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   <u>See Continuation Sheet</u>.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Rachna S Desai/
Primary Examiner, Art Unit 2176

Continuation of 11. Other: Applicant's arguments shall be addressed in the interest of furthering prosecution.

On pgs. 5-6 of their 4/14/2008 amendment that the '334 publication fails to teach "testing an operating system of the logical mouse to determine if the operating system of the logical mouse supports the use of a USB-based human interface descriptor (HID) sing absolute movement of a mouse cursor to an absolute position other than the origin".

The examiner respectfully disagrees.

As previously explained in the 12/12/2007 rejection, the '334 publications states in pg. 7, paragraph [0072], that their processor provides "basic system testing" and transferring of mouse and keyboard signals. the '334 publicaiton later explains in pg. 3, paragraph [0031], that the keyboard and mouse may be murged into a USB interface. While applicant argues that "the testing of an operating system would not be taught by the '334 publication as a stated goal of the '334 publication is providing control of a remote computer independent of the operating system of the remote computer" and "there is no need to test an operating system of the logical mouse to determine if the operating system…supports… using absolute movement of a mouse cursor", the examiner fails to find this as the '334 publication teaching AWAY from "testing an operating system of the logical mouse to determine if the operating system of the logical mouse support the use of a USB-based human interface descriptor". As the '334 publication teaches of such a purpose as controlling remote computers independent of operating system, one of ordinary skill in the art would see the capability to determine if the the controlled computers' support such an interface would be a clear operating procedure.   Support for this may be found in that the '334 publication teaches that the controlling and controlled device implementation may be a "plug-in" card as they teach in page 3, paragraphs [0031] and [0032]. The '334 publication further teaches in page 3, paragraph [0031], that the controller cards are phyically connected to an interface which may be a keyboard and a mouse and further that these two interfaces may be combined into a single USB interface. As the '334 publication further teaches of basic system testing, one of ordinary skill would have seen testing these "plug-in" cards as a form of "basic system testing".

Applicant further argues on pages 6-8 that the '334 publication fails to teach moving the cursor using "absolute movement"

The examiner again respectfully disagrees.

The sole explanation of what applicant defines as "absolute movement" is given in there specification at paragraph [0035] where applicant states "move to coordinates x543, y234". Under this explanation of "absolute movement", the examiner interprets "absolute movement" to be any form of movement which moves the cursor to a set target location. As the '334 publication first generates a pseudo-cursor at a target location, and then utilizes relative movement to move the cursor to that target location (pg. 9, paragraph [0087]), this is seen as an implementation of "absolute movement" as applicant's claim limitations are mute to their method as NOT UTILIZING relative movement. Furthermore, as the '334 publication teaches that the pseudo-cursor is generated at a target location and the cursor is subsequently moved to that target location, this is interpreted as reading on applicant's limitations of claim 1.